

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

JEFFREY GASPARITSCH,

Plaintiff,

v.

Case No.: 22-cv-76

NELSON INDUSTRIES, INC.,

Defendant.

---

DENIAL OF ENTRY OF DEFAULT

---

Plaintiff requests that default be entered against defendant Nelson Industries, Inc., pursuant to Federal Rule of Civil Procedure 55(a). Plaintiff's counsel completed and signed the proof of service portion of the summons form indicating that counsel served the summons on Nelson Industries, Inc., who is designated by law to accept service of process on behalf of Nelson Industries, Inc. Dkt. 3. Plaintiff also supports his request with a Federal Express Delivery Confirmation indicating that a package was delivered to Nelson Industries, Inc. on February 16, 2022 and was "Signed for by: Signature on File". Dkt. 3 and Dkt 4. The record fails to demonstrate that service was proper.

The party moving for entry of default has the burden of showing that service of process was proper. Wis. Stat. § 801.10(2) provides that the person who serves a copy of the summons shall sign the summons and shall indicate thereon the time and date, place and manner of service and upon whom service was made.

Counsel filed a proof of service but did not personally serve the defendant. In addition, the Federal Express Delivery Confirmation fails to identify the person who accepted service on

behalf of the defendant. Entry of default is denied pending satisfaction of this requirement.

Dated this 25<sup>th</sup> day of March, 2022.

s/ Peter Oppeneer

PETER OPPENEER

Clerk of Court

United States District Court

Western District of Wisconsin